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# National courts and other non-judicial bodies

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Poland



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## NATIONAL COURTS

Pursuant to the *Polish Constitution ('Konstytucja Rzeczypospolitej Polskiej')* everyone has the right to a fair and public hearing, without undue delay, before a competent, impartial and independent court. This means that any disputes relating to the exercise of the rights and freedoms guaranteed by national law may be brought before the national courts. Civil, family and juvenile law, labour and social security law, commercial and bankruptcy law and criminal and penitentiary cases are decided by the ordinary courts. The administrative courts monitor the legality of action by the authorities. The military courts administer justice within the Polish Armed Forces within the scope laid down by Acts of Parliament and also, in the cases provided for in Acts of Parliament, with respect to persons who are not members of the Polish Armed Forces.

The ordinary, administrative and military courts operate in accordance with the principle of two-tier proceedings, in which a party which is dissatisfied with the manner in which the case has been resolved by the court may appeal to a higher court against the ruling.

In addition, the Polish Constitution grants everyone whose constitutional rights or freedoms have been infringed the right to lodge a constitutional complaint with the Constitutional Tribunal (*Trybunał Konstytucyjny*). This complaint may only be drawn up by a lawyer ('*adwokat*') or attorney at law ('*radca prawny*') (exceptions being judges ('*sędziowie*'), prosecutors ('*prokuratorzy*'), lawyers ('*adwokaci*'), attorneys at law ('*radcowie prawni*'), notaries ('*notariusze*'), or professors or doctors of law who are representing themselves) and is free of court fees. Complaints may concern a regulatory instrument on the basis of which a court or public authority has handed down a final ruling on the rights, freedoms or duties laid down in the Constitution.

## NATIONAL HUMAN RIGHTS INSTITUTIONS

### The Ombudsman ('*Rzecznik Praw Obywatelskich*')

Address: Aleja Solidarności 77, 00-090 Warsaw

The Ombudsman's role is to safeguard the rights and freedoms of persons and citizens laid down in the Constitution and in other regulatory instruments.

Everyone has the right to apply to the Ombudsman for assistance in cases involving the protection of his or her rights or freedoms that have been infringed by the authorities.

Applications to the Ombudsman are free of charge.

After reviewing the application, the Ombudsman may:

- take on the case;
- indicate the remedies available to the applicant;
- forward the case to the competent body;

- refuse to take on the case.

When taking on a case, the Ombudsman may:

- conduct the investigation itself;
- request the competent authorities to examine the case or part thereof;
- request the Sejm (the lower house of the Polish Parliament) to instruct the Supreme Audit Office ('*Najwyższa Izba Kontroli*') to conduct an audit in order to examine the case in question or part thereof.

While conducting its proceedings, the Ombudsman has the right to:

- examine any case on the spot (also without prior notice);
- request clarifications and the submission of files in any case conducted by the authorities in question;
- request information on progress in a case conducted by the courts, the prosecutor's office and other law enforcement agencies, and request that files be submitted for inspection to the Ombudsman's Office after the proceedings have been completed and the ruling issued;
- commission expert and other opinions.

After examining a case, the Ombudsman may:

- explain to the applicant that no infringement of rights and freedoms has occurred;
- call on the authority, organisation or institution whose action has been found to infringe rights and freedoms to remedy the infringement in question, and subsequently monitor implementation of the recommendations;
- request the authority that supervises the body in question to apply the measures provided for by law;
- request that proceedings be instituted and take part in any civil proceedings pending;
- request that the prosecutor with jurisdiction institute pre-trial proceedings in cases involving offences that are prosecuted *ex officio*;
- request that administrative proceedings be instituted, lodge complaints with the administrative court and take part in these proceedings;
- bring a motion for penalty and also a motion to set aside the final decision in cases involving minor offences;
- file an action or complaint in cassation against a final ruling.

If the Ombudsman considers it necessary for a regulatory instrument on rights and freedoms to be amended or enacted, it may make a request to that effect to the competent authorities.

## SPECIALISED HUMAN RIGHTS BODIES

### The Ombudsman for Children ('*Rzecznik Praw Dziecka*')

Address: ul. Przemysłowa 30/32, 00-450 Warsaw

The Ombudsman for Children works to protect children's rights, including:

- the right to life and healthcare;
- the right to family upbringing;
- the right to decent living conditions;
- the right to education;
- the rights of children with disabilities;
- protecting children against all forms of violence, cruelty, exploitation, demoralisation, neglect and other maltreatment.

Everyone has the right to apply to the Ombudsman for Children for assistance in cases relating to the protection of a child's rights or interests.

Applications to the Ombudsman for Children are free of charge.

When conducting proceedings, the Ombudsman for Children may:

- examine any case on the spot (also without prior notice);
- request the bodies in question to provide clarifications or information or make files available;
- commission expert and other opinions.

After examining a case, the Ombudsman for Children may:

- request the competent bodies to take action for the child's benefit;
- request that disciplinary action be instituted or disciplinary sanctions imposed where it is found that the body in question has infringed the child's rights or interests;
- participate in proceedings before the Constitutional Tribunal that have been instituted at the Ombudsman's request or in constitutional complaint cases that have a bearing on children's rights;
- bring motions to the Supreme Court ('Sąd Najwyższy') to resolve divergences in the interpretation of legal regulations that concern children's rights;
- file an action or complaint in cassation;
- request that proceedings be instituted and take part in any civil proceedings pending;
- participate in proceedings involving juveniles;
- request that the competent prosecutor institute pre-trial proceedings in cases involving offences;
- request that administrative proceedings be instituted, lodge complaints with the administrative court and take part in these proceedings;
- bring a motion for penalty in cases involving minor offences.

If the Ombudsman for Children considers it necessary for a regulatory instrument on children's rights to be amended or enacted, it may make a request to that effect to the competent authorities.

## The Patients' Ombudsman ('Rzecznik Praw Pacjenta')

Address: ul. Młynarska 46, 01-171 Warsaw

The Patients' Ombudsman is the competent body for the protection of patients' rights.

Everyone has the right to apply to the Patients' Ombudsman for assistance where a patient's rights have been infringed.

Applications to the Patients' Ombudsman are free of charge.

After reviewing the application, the Patients' Ombudsman may:

- take on the case;
- indicate the remedies available to the applicant;
- forward the case to the competent body;
- refuse to take on the case.

When taking on a case, the Patients' Ombudsman may:

- conduct the investigation itself;
- request the competent authorities to examine the case or part thereof.

While conducting its proceedings, the Patients' Ombudsman has the right to:

- examine any case on the spot (also without prior notice);
- request clarifications and the submission of files in any case conducted by the authorities in question;
- request information on progress in a case conducted by the courts, the prosecutor's office and other law enforcement agencies, and request that files be submitted for inspection to the Patients' Ombudsman's Office after the proceedings have been completed and the ruling issued;
- commission expert and other opinions.

After examining a case, the Ombudsman may:

- explain to the applicant that no infringement of patient's rights has occurred;
- call on the authority, organisation or institution whose action has been found to infringe the patient's rights to remedy the infringement in question;

- request the authority that supervises the aforementioned body to apply the measures provided for by law;
- request that proceedings be instituted and take part in any civil proceedings pending.

If the Patients' Ombudsman considers it necessary for a regulatory instrument on patients' rights to be amended or enacted, it may make a request to that effect to the competent authorities.

## The Inspector-General for Personal Data Protection ('*Generalny Inspektor Ochrony Danych Osobowych*')

Address: ul. Stawki 2, 00-193 Warsaw

The Inspector-General is the competent body for personal data protection.

Where the provisions of the Data Protection Act ('*ustawa o ochronie danych osobowych*') have been infringed, the data subject may lodge a complaint with the Inspector-General.

Administrative proceedings conducted by the Inspector-General consist in examining the processing of the applicant's personal data.

When conducting proceedings, the Inspector-General, Deputy Inspector-General and authorised staff have the right to:

- enter the premises in which the data filing system is located and also premises where the data are processed, and perform the necessary checks;
- request clarifications and summon and interrogate individuals in order to establish the facts;
- inspect any documents and data relating directly to the subject matter of the inspection and make copies thereof;
- inspect the equipment, media and IT systems used to process data;
- commission expert and other opinions.

After conducting proceedings, the Inspector-General - where regulations are found to have been infringed - issues a decision that orders compliance to be restored, including:

- ending irregularities;
- supplementing, updating or rectifying personal data, making them available or refraining from doing so;
- taking additional measures to protect personal data;
- discontinuing the transfer of personal data to a third country;
- securing data or transferring them to other bodies;
- deleting personal data.

Notwithstanding the above, on the basis of the information collected during the examination of the case, the Inspector-General, of its own motion, decides whether to exercise the following powers:

- send a letter to the body that the complaint concerns;
- request that disciplinary or other action under the law be instituted against offenders;
- notify a law enforcement agency of the suspected offence.

Where the Inspector-General considers it necessary for a regulatory instrument on personal data protection to be amended or enacted, it may make a request to that effect to the competent authorities.

## The Government Plenipotentiary for Equal Treatment ('*Pełnomocnik Rządu ds. Równego Traktowania*')

Address: Al. Ujazdowskie 1/3, 00-583 Warsaw

The Plenipotentiary is the body responsible for implementing government equal treatment and anti-discrimination policies.

Everyone has the right to submit a complaint, application or petition to the Plenipotentiary.

No charge is made for submitting a complaint, application or petition.

If responding to the above requires the prior examination and clarification of the facts of the case, the Plenipotentiary collects the necessary evidence. To that end, it may request that other authorities provide the necessary evidence and clarifications.

The complaint, application or petition should be handled without undue delay:

- within one month in the case of a complaint or application;
- within three months in the case of a petition.

The Plenipotentiary informs the applicant of the manner in which the case has been handled.

If it is found that the principle of equal treatment has been infringed, the Plenipotentiary takes measures to eliminate or mitigate the effects of such infringement.

If the Plenipotentiary considers it necessary for a regulatory instrument on equal treatment and anti-discrimination to be amended or enacted, it may make a request to that effect to the competent authorities.

## The Government Plenipotentiary for Persons with Disabilities (*Pełnomocnik Rządu ds. Osób Niepełnosprawnych*)

The Plenipotentiary exercises substantive supervision over the performance of tasks arising from the *Occupational and Social Rehabilitation and Employment (Persons with Disabilities) Act (ustawa o rehabilitacji zawodowej i społecznej oraz zatrudnianiu osób niepełnosprawnych)*.

The Plenipotentiary supervises the issuing of certificates of disability and determining the degree of disability.

Everyone has the right to submit a complaint, application or petition to the Plenipotentiary.

If responding to the above requires the prior examination and clarification of the facts of the case, the Plenipotentiary collects the necessary evidence. To that end, it may request that other authorities provide the necessary evidence and clarifications.

The complaint, application or petition should be handled without undue delay:

- within one month in the case of a complaint or application;
- within three months in the case of a petition.

The Plenipotentiary informs the applicant of the manner in which the case has been handled.

If, within the framework of supervision, the Plenipotentiary finds that there is reasonable doubt as to whether a ruling reflects the facts of the case or that a ruling may have been handed down unlawfully, it may request the competent authority to:

- annul the ruling;
- resume proceedings.

## OTHER SPECIALISED BODIES

### The National Broadcasting Council ('*Krajowa Rada Radiofonii i Telewizji*')

Address: Skwer kard. S. Wyszyńskiego 9, 01-015 Warsaw

The National Broadcasting Council safeguards freedom of speech in radio and television, protects the autonomy of media service providers and the public interest and ensures the open and pluralistic nature of radio and television.

Everyone has the right to submit a complaint, application or petition to the Council.

No charge is made for submitting a complaint, application or petition.

Where the complaint concerns a particular broadcast, the complainant must specify the time and date of the broadcast, the name of the channel and the title of the broadcast (or any other information that enables the broadcast that is the subject of the complaint to be identified).

The Chairperson of the Council may request the media service provider to provide any evidence, documents and clarifications necessary to ascertain whether the provider acted in accordance with the law.

The complaint, application or petition should be handled without undue delay: within one month in the case of a complaint or application and within three months in the case of a petition.

The Council informs the applicant of the manner in which the case has been handled.

The Chairperson of the Council may demand that the media service provider cease providing media services where these are in infringement the law.

In certain cases, the Chairperson of the Council may impose a financial penalty on the media service provider.

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